

FILED

January 19, 2024

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

BY: NM
DEPUTY

JAMES MARTZALL,

Plaintiff,

v.

**DEUTSCHE BANK NATIONAL
TRUST COMPANY, AS INDENTURE
TRUSTEE, ON BEHALF OF THE
HOLDERS OF THE ACCREDITED
MORTGAGE LOAN TRUST 2006-2
ASSET BACKED NOTES,**

Defendant.

CIVIL NO. SA: 5:24-CV-00042-OLG

ORDER

On this date the Court considered the status of the above styled and numbered case. It has come to the Court's attention that a previously filed suit by Plaintiff against Defendant relates to the same mortgage loan on 16543 Inwood Cove, San Antonio, Texas 78248. *See Martzall v. Deutsche Bank National Trust Company*, No. 5:22-CV-00018-XR (W.D. Tex. January 10, 2022). There, the case was dismissed *with prejudice*. *Id.* at Dkt. No. 39.

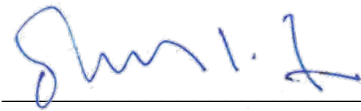
The court may raise res judicata *sua sponte* in the interest of judicial economy where both actions were brought before the same court and claims are nearly identical to claims previously litigated before the same court. *McIntyre v. Ben E. Keith Co.*, 754 F. App'x 262, 264 (5th Cir. 2018); *Boone v. Kurtz*, 617 F.2d 435, 436 (5th Cir. 1980). Claim preclusion, or res judicata, bars the litigation of claims that either have been litigated or should have been raised in an earlier suit. *Test Masters Educ. Servs. v. Singh*, 428 F.3d 559, 571 (5th Cir. 2005) (citing *Petro-Hunt, L.L.C. v. United States*, 365 F.3d 385, 395 (5th Cir. 2004)). The test for res judicata has four elements: (1) the parties are identical or in privity; (2) the judgment in the prior action was rendered by a court of competent jurisdiction; (3) the prior action was concluded by a final judgment on the merits; and (4) the same claim or cause of action was involved in both actions. *Id.* (citation omitted).

Generally, a “federal court’s dismissal with prejudice is a final judgment on the merits for res judicata purposes.” *Stevens v. Bank of America, N.A.*, 587 F.App’x 130, 133 (5th Cir. 2014). If the four elements of res judicata exist, all claims arising from the “common nucleus of operative facts” are barred by res judicata. *P&G v. Amway Corp.*, 376 F.3d 496, 499 (5th Cir. 2004) (citing *Agilelectric Power Partners, Ltd. v. Gen. Elec. Co.*, 20 F.3d 663 (5th Cir. 1994)).

Accordingly, it is hereby **ORDERED** that Plaintiff shall **SHOW CAUSE** within fourteen (14) days of the entry of this Order why the claims against Defendant should not be dismissed with prejudice based upon res judicata.

It is so **ORDERED**.

SIGNED this 19th day of January, 2024.

A handwritten signature in blue ink, appearing to read "Orlando L. Garcia", is written over a horizontal line.

ORLANDO L. GARCIA
United States District Judge